

REMARKS

Applicant, by the amendments presented above, has made a concerted effort to present claims which more clearly define over the prior art of record, and thus to place this case in condition for allowance.

Currently, claims 1-21 are pending. Claims 10-21 were added in this Amendment.

Allowable Subject Matter

Claims 1-3 were allowed. Claim 3 has been amended to delete the dependency on claim 1 and remains dependent upon claim 2. Applicant submits that this does not effect the allowability of claim 3. Allowance of claim 3 is again requested.

Claim Rejections - 35 U.S.C. §112

Claims 4 and 7 were rejected under 35 U.S.C. §112, second paragraph. Because the dependency of claim 3 has been amended, upon which claim 4 is dependent, Applicant submits that proper antecedent basis has been provided for "said second auxiliary outlet". Because claims 4 and 7 are dependent upon claims which have been allowed, Applicant submits that claims 4 and 7 are allowable. Reconsideration and allowance of claims 4 and 7 is respectfully requested.

Claim Objections

Claims 5, 6, 8 and 9 were objected to under 37 C.F.R. §1.75(c) and were not treated on the merits.

Claim 5 has been amended to solely depend from claim 4. Claim 6, while multiple dependent, is not dependent upon another multiple dependent claim. Therefore, claims 5 and 6 are in proper form and consideration is requested. In addition, because claims 5 and 6 are dependent upon claims which have been allowed, Applicant submits that claims 5 and 6 are allowable. Consideration and allowance of claims 5 and 6 is respectfully requested.

Claim 8 has been amended to be independent and to include all of the limitations of claim 1. Applicant submits that because claim 1 is allowable, the system claim of claim 8 is also allowable. Consideration and allowance of claim 8, and dependent claim 9, is respectfully requested.

Newly-Added Claims 10-21

Dependent claims 10-21 are newly presented and are directed to the system. Claim 10 corresponds to claim 2; claim 12 corresponds to claim 3; claim 14 corresponds to claim 4; claim 16 corresponds to claim 5; claim 18 corresponds to claim 6; and claim 20 corresponds to claim 7. Claims 11, 13, 15, 17, 19 and 21 correspond to claim 9. As stated, Applicant submits that because claim 1 is allowable, the system claim of claim 8 is also allowable. Because claims 10-21 are dependent upon claim 8, Applicant submits that claims 10-21 are allowable. Entry, consideration and allowance of claims 10-21 is respectfully requested.

A version of any replacement paragraphs, on separate pages from the amendment, marked up to show all the changes relative to the previous version of the paragraphs (underlining or bracketing) is also provided herewith in conformance with 37 C.F.R. 1.121(b)(1)(iii).

A version of any amended claims, on separate pages from the amendment, marked up to show all the changes relative to the previous version of the claims (underlining or bracketing) is also provided herewith in conformance with 37 C.F.R. 1.121(c)(1)(ii).

A clean version (no underlining and bracketing) of the entire set of pending claims, on separate pages from the amendment, is also provided herewith as detailed in 37 C.F.R. 1.121(c)(3).

Applicant has submitted a Petition for a One-Month Extension of Time to extend the date for response to the Office Action up to and including July 11, 2002.

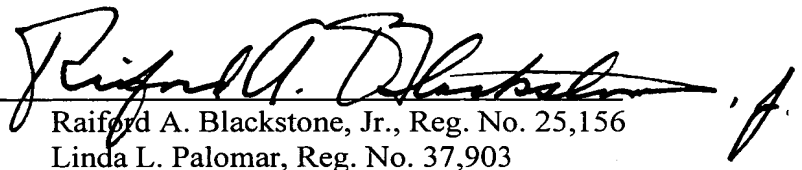
In view of the above Amendments and Remarks, Applicant respectfully submits that the claims of the application are allowable over the rejections of the Examiner. Should the Examiner have any questions regarding this Amendment, the Examiner is invited to contact one of the undersigned attorneys at (312) 704-1890.

Respectfully submitted,

Dated:

June 18, 2002

By:


Raiford A. Blackstone, Jr., Reg. No. 25,156
Linda L. Palomar, Reg. No. 37,903

TREXLER, BUSHNELL, GIANGIORGI
BLACKSTONE & MARR, LTD.
105 W. Adams Street
Suite 3600
Chicago, Illinois 60603
(312) 704-1890

356523

**MARKED UP VERSION OF REPLACEMENT PARAGRAPHS IN
CONFORMANCE WITH 37 C.F.R. 1.121(b)(1)(iii)**

Paragraph starting on page 1, lines 17-24

A number of devices exist to reduce the effort required by the patient to exhale. For example US Patent 5,657,752 assigned to Airways Associates describes a variable orifice venting aperture member in the nasal mask to help vent the exhalations. US Patent Number 5,065,756 assigned to New York University includes vent holes in the face mask for rapid discharge of exhaled air. US Patent [4,658,213] 4,655,213 assigned to New York University includes a threshold valve to release air from the mask. Alternatively electronic methods exist such as that described in US Patent 5803065 assigned to Respironics have been used to improve the effectiveness of CPAP therapy.

**MARKED UP VERSION OF AMENDED CLAIMS IN
CONFORMANCE WITH 37 C.F.R. 1.121(c)(1)(ii)**

1. (Once Amended) A device for controlling the gas flow between a pressurised gases supply and a user, comprising:
- 5 a body portion including a first opening adapted to be in fluid communication with a pressurised gases supply, a second opening adapted to be in fluid communication with a user,
- a first auxiliary outlet in said body portion, and
- valve means adapted such that during a user's inhalation, the flow of gases
- 10 from said first opening is directed to said second opening, and during a user's exhalation, the flow of gases from said first opening is directed to said first auxiliary outlet.
3. (Once Amended) A device as claimed in [claims 1 or] claim 2 wherein said valve means comprises an axially moveable member of a construction suitable to
- 15 substantially seal inside said body portion but in use axially moveable therein.
5. (Once Amended) A device as claimed in [claims 3 or] claim 4 wherein said moveable member includes a partition disposed between said apertures in said moveable member, and a one way valve allowing flow only in the direction from said first opening to said second opening.
- 20 8. (Once Amended) A system for supplying gases to a user at a pressure above ambient comprising:
- a pressurised gases supply,
- gases delivery means for supplying said gases to said user in fluid communication with said pressurised gases supply and said user, and
- 25 flow control means disposed within said gases delivery means or in fluid communication therewith, said flow control means comprising a device [according to

any one of the preceding claims] for controlling the gas flow between a pressurised gases supply and a user, said device including a body portion including a first opening adapted to be in fluid communication with a pressurised gases supply, a second opening adapted to be in fluid communication with a user, a first auxiliary outlet in said body portion, and valve means adapted such that during a user's inhalation, the flow of gases from said first opening is directed to said second opening, and during a user's exhalation, the flow of gases from said first opening is directed to said first auxiliary outlet.

10. (New) A system as claimed in claim 8 wherein said device further includes a second auxiliary outlet in said body portion, which during inhalation of a user is closed, and during exhalation of a user is open and in fluid communication with said second opening.

11. (New) A system as claimed in claim 10 further comprising humidification means, for humidifying said gases before delivery to said user, disposed within or in fluid communication with said gases delivery means.

12. (New) A system as claimed in claim 10 wherein said valve means of said device comprises an axially moveable member of a construction suitable to substantially seal inside said body portion but in use axially moveable therein.

13. (New) A system as claimed in claim 12 further comprising humidification means, for humidifying said gases before delivery to said user, disposed within or in fluid communication with said gases delivery means.

14. (New) A system as claimed in claim 12 wherein said movable member includes at least two apertures and said first auxiliary outlet and said second auxiliary outlet comprise apertures in said body portion which align with said apertures in said

moveable member during exhalation of a user, and are closed off by solid sections of said moveable member during inhalation of a user.

15. (New) A system as claimed in claim 14 further comprising humidification means, for humidifying said gases before delivery to said user, disposed within or in fluid communication with said gases delivery means.

16. (New) A system as claimed in claim 14 wherein said moveable member includes a partition disposed between said apertures in said moveable member, and a one way valve allowing flow only in the direction from said first opening to said second opening.

17. (New) A system as claimed in claim 16 further comprising humidification means, for humidifying said gases before delivery to said user, disposed within or in fluid communication with said gases delivery means.

18. (New) A system as claimed in any one of claims 10, 12, 14 or 16 wherein said first auxiliary outlet is of an cross sectional area greater than that of said second auxiliary outlet.

19. (New) A system as claimed in claim 18 further comprising humidification means, for humidifying said gases before delivery to said user, disposed within or in fluid communication with said gases delivery means.

20. (New) A system as claimed in claim 14 wherein said body portion includes stopping means restricting the axial movement of said movable member such that during inhalation said moveable member moves towards said second opening until stopped by said stopping means whereby said apertures in said body portion are closed off by said solid sections, and during exhalation said moveable member moves

toward said first opening until stopped by said stopping means whereby said apertures in said moveable member align with said apertures in said body portion.

21. (New) A system as claimed in claim 20 further comprising humidification means, for humidifying said gases before delivery to said user, disposed within or in fluid communication with said gases delivery means.
- 5